

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement of \$10,824.80 for dates of service 02/05/01 through 03/16/01.
- b. The request was received on 01/23/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution dated 01/18/02
 - b. HCFA(s)
 - c. TWCC 62 forms
 - d. Medical Records
 - e. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Based on Commission Rule 133.307 (g) (4), the Division notified the insurance carrier Austin Representative of their copy of the request on 04/01/02. The Respondent did not submit a response to the request. The "No Response Submitted" sheet is reflected in Exhibit II of the Commission's case file.
3. Notice of Medical Dispute is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor:
 - a. "Our position is that the fees paid for these services were not 'fair and reasonable.' Evidence of this is seen in Attachment #1. Attachment #1 contains examples of claims paid at our billed rate by other insurance companies during the same period of time. The claims are credible evidence of our billed rate is 'fair and reasonable.'

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only dates of service eligible for review are those commencing on 02/05/01 and extending through 03/16/01.
2. The carrier's EOB denial submitted is "*-Payment by the carrier will be according to the medical policies and fee guidelines established by the Commission."

3. The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	REFEREN CE	RATIONALE:	
2/05/01	97799-CP-AP	\$1400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr	TWCC Act & Rules Sec. 413.011 (d), Rules 133.304 (i) & 133.305 (i) MFG;MGR (II)(C)(G)	The provider has included in their dispute packet, documentation (EOBs from other carriers) that provides some evidence of “fair and reasonable” reimbursement per Sec. 413.011 (d). The provider is a CARF accredited facility, therefore the \$175.00 per/hr billed will not be reduced according to the Fee Guidelines. The carrier did not respond to this dispute. The provider billed in accordance with the referenced Rule and medical documentation indicates that the services were rendered.	
2/06/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/07/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/08/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/09/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/12/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/13/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/14/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/15/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/16/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/19/01		\$1,225.00 (7.0 units)	\$872.20	*	DOP \$124.60 per/hr		Regardless of the carrier’s lack of methodology or a timely response, the burden remains on the provider to show that the amount of reimbursement requested is fair and reasonable. The provider has not submitted any evidence or a methodology they used to determine fair and reasonable. In light of recent SOAH decisions, where providers had submitted EOBs for fair and reasonable, SOAH has placed minimal value on EOBs for documenting fair and reasonable. The willingness of some carriers to reimburse at or near the billed amount is fair and reasonable and does not show how effective medical cost control is achieved, a criteria identified in Sec. 413.011 (d) of the Texas Labor Code.	
2/20/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/21/01		\$700.00 (4.0 units)	\$498.40	*	DOP \$124.60 per/hr			
2/22/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
2/23/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
3/05/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
3/06/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
3/07/01		\$875.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
3/08/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
3/09/01		\$1,400.00 (8.0 units)	\$996.80	*	DOP \$124.60 per/hr			
3/12/01		\$1,400.00 (8.0 units)	\$797.44	*	DOP \$99.68 per/hr			The provider reimbursed \$124.60 per hour for the dates of service 02/05/01 through 03/09/01 and only \$99.68 for the dates of service 03/12/01 through 03/16/01. This leaves a difference of \$24.92 for the 40 hours billed 03/12/01 through 03/16/01. Therefore, additional reimbursement in the amount of \$996.80 is recommended.
3/13/01		\$1,400.00 (8.0 units)	\$797.44	*	DOP \$99.68 per/hr			
3/14/01		\$1,400.00 (8.0 units)	\$797.44	*	DOP \$99.68 per/hr			
3/15/01		\$1,400.00 (8.0 units)	\$797.44	*	DOP \$99.68 per/hr			
3/16/01		\$1,400.00 (8.0 units)	\$797.44	*	DOP \$99.68 per/hr			
Totals		\$34,125.00	\$23,300.20					The Requestor is entitled to reimbursement in the amount of \$996.80.

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$996.80 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 12th day of June 2002.

Michael Bucklin, LVN
Medical Dispute Resolution Officer
Medical Review Division

MB/mb

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.